

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE ARIZONA DEPARTMENT OF TRANSPORTATION,
THE FEDERAL HIGHWAY ADMINISTRATION, ARIZONA,
AND
THE NATIONAL PARK SERVICE,
ORGAN PIPE CACTUS NATIONAL MONUMENT, ARIZONA

I. PURPOSE

This memorandum outlines policies and procedures for the National Park Service (NPS) on Organ Pipe Cactus National Monument and Biosphere Reserve (OPCNM), Arizona Department of Transportation (ADOT), and Arizona Division of Federal Highway Administration (FHWA). To establish and improve cooperative working relationships for implementing a number of improvements to State Route 85 through OPCNM. The participating agencies hope to accomplish this goal by:

- Developing a mutual understanding of the missions, goals, constraints and responsibilities of the NPS-OPCNM, ADOT and FHWA as they relate to land and resource management practices on national park lands under or contiguous to State Route 85 through OPCNM; ADOT development and operations practices on highways located on NPS-OPCNM lands; and public lands needed for transportation purposes.
- Defining NPS-OPCNM, ADOT, and FHWA organizational structures and identifying areas of cooperation to facilitate coordinated work efforts;
- Developing procedures and standardized methods for communication and coordination; and
- Minimizing duplication of work and streamlining work processes.

This memorandum provides for a coordinated approach to accomplish land and resource management, and transportation development and operation management in completing NPS-OPCNM, ADOT and FHWA goals and objectives. Such coordination is subject to the respective authorities of each agency, and is designed to eliminate duplication of work, to establish procedures for streamlining work processes, to ensure each agency is provided sufficient lead time for proper sequential functions. To make more efficient use of and share available resources, and to develop and execute action programs that maximize responsiveness to public needs and concerns.

II. AUTHORITY

The broad authority for this Memorandum of Understanding is contained in the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 43 U.S.C. 1737). The various Federal-aid Highway Acts codified in 23 U.S.C.; the National Environmental Policy Act of 1969 (P.L. 91-190; 42 U.S.C. 4321 *et seq.*); Title IV of the Inter-Governmental Cooperative Act of 1968 (P.L. 90-577; 31 U.S.C. 6506); the Federal Grants and Cooperative Agreement Act of 1977 (P.L. 95-224; 41 U.S.C. 501-509); and Arizona Revised Statutes sections 28-104. Other authorities, and regulations for administering such authorities, if applicable, will be cited within the appendix of this Memorandum.

III. ORGANIZATION AND WORK FLOW

A. National Park Service

1. NPS organizational structure in the NPS–Intermountain Region consists of two levels of line management: the Superintendent and the Regional Director. Decision-making authority for most actions occurring on OPCNM has been delegated to the Superintendent. The Regional Director has signature authority for Findings of No Significant Impact.
2. Staff positions provide technical and administrative assistance and support to both levels of line management. One additional level of technical staff assistance is available at the NPS–Support Office in Denver, Colorado.
3. Customary internal workflow is from the technical staff specialist to the Superintendent, OPCNM and from the Superintendent to the Regional Director. Generally, on intergovernmental working relationships, the Superintendent and his/her staff work with their local counterparts and the Regional Director and his/her staff work with State and regional offices.

B. Arizona Department of Transportation

1. ADOT operates under a centralized structure with the primary support offices in Phoenix. OPCNM is located within ADOT's Tucson District.
2. The Tucson District maintains the roadways within the boundaries of that district. Additionally, they support local customers by reviewing customer needs, concerns and opportunities. Each District has a supportive administration team, a construction and maintenance team. The Environmental Planning Group has an office located in Tucson.

3. The ADOT Central Office in Phoenix provides the technical support for all of ADOT. Phoenix is the heart of the organization providing engineering, rights-of-way, environmental, project development, utility location and computer technical support.

B. Federal Highway Administration

1. The Arizona Division organizational structure consists of three levels of line management: Operations/District Engineer, Assistant Division Administrator, Division Administrator.
2. The state is divided into two engineering districts: A and B. District A covers ADOT districts of Phoenix and Flagstaff. District B covers ADOT districts of Kingman, Yuma, Prescott, Tucson, Globe, Holbrook and Safford.
3. The Area Engineer has oversight responsibilities for project development and project approvals within his or her particular area. The Area Engineer designated A-2 is responsible for activities in ADOT districts of Tucson, and Safford.

A list of participants in the planning and development of these improvements is provided in Appendix I.

IV. PROJECT DESCRIPTION

State Route 85 or Arizona State Route 85 is located in southwestern Arizona and is the north-south route that connects the Mexican State of Sonora with Ajo, Arizona, and points north. A 22.7-mile section of State Route 85 is on Organ Pipe Cactus National Monument (OPCNM). The National Park Service (NPS), Federal Highways Administration (FHWA) and Arizona Department of Transportation (ADOT) share the following goals for the proposed improvements on State Route 85 through OPCNM:

- Ensure the safety of travelers.
- Minimize impacts of State Route 85 on natural resources (vegetation, wildlife, water quality, soils, etc.) and discourage establishment of invasive species.
- Provide for an aesthetic and educational travel experience appropriate for a National Monument and Biosphere Reserve.
- Comply with Federal and State laws, National Park Road Standards, NPS policy and ADOT policy.
- Maintain the integrity of the road.

The ADOT, FHWA and NPS have proposed a number of improvements on the section of State Route 85 through OPCNM. A summary of the proposed improvements is as follows:

- Pavement preservation (overlay). The northern limit of the proposed project would be at milepost (MP) 57.80 and the southern limit would be at MP80.5. ADOT would place asphaltic concrete overlay and a chip seal coat along the full length of the project. The completed roadway width would be 26 feet wide with an asphaltic concrete wedge.
- Ford concrete walls at low wash crossings. ADOT would construct ford-concrete walls at about 14 low-wash crossings. The ford walls would extend the width of the wash bed and an undetermined distance on either side.
- Construct interpretive waysides with appropriate roadway widening at specified locations. NPS and ADOT would cooperate to design the waysides. Waysides would receive an overlay in accordance with ADOT policy. Acceleration and deceleration lanes would accompany each wayside location as required. ADOT would extend box and pipe culverts to accommodate the acceleration and deceleration lanes.
- Modify Visitor Center intersection. ADOT would construct acceleration, deceleration and turn lanes at the new exit/entrance (the existing exit) to the NPS Visitor Center.
- Cherioni Wash Bridge. ADOT has also proposed to construct a new bridge or culvert crossing Cherioni Wash (MP70.5). Currently there are 4 alternatives under consideration for the crossing at Cherioni Wash: 1) Construct a bridge, 2) Construct a box culvert, 3) Construct ford walls and retain existing as low-water crossing, 4) No action (retain existing low-water crossing with no ford walls).
- Remove existing cattle guard. The existing cattle guard at the north boundary to the monument (MP57.80) would be removed and would not be replaced.
- Install two traffic counter loop detector systems.
- Modify Alamo Wash Bridge. The following modifications are proposed:
 - Bridge barrier would be reconstructed.
 - Approach and departure guardrails would be removed.
 - New guardrail, rub rails and guardrail transitions to the new bridge barrier rail at the approach and departure ends would be constructed.
 - Concrete embankment curb would be removed and replaced.
 - Two existing spillways next to the bridge would be reconstructed.
 - Construction activity in the wash is not expected to occur.
 - Paved turnouts at existing NPS dirt roads. Turnouts at the Alamo Canyon Road, South Puerto Blanco Road, Camino de Dos Republicas and Ajo Mountain Drive and possibly others would be paved.

- Other projects. Install new safety and directional signs, object markers, flexible delineators, pavement markers, and re-stripe.

V. PROJECT SCHEDULE, AGENCY ROLES AND RESPONSIBILITIES

General Roles and Responsibilities

The NPS–OPCNM, ADOT and FHWA recognized the need to work together. Establishing procedures for timely disposition of issues or problems connected with the planning, design, construction and maintenance of improvements to State Route 85 through Organ Pipe Cactus National Monument, Arizona; and to achieve maximum efficiency from their respective agency funds and personnel. The parties therefore agree to:

- A. Develop a mutual understanding of each other's missions, goals and objectives.
- B. Develop effective communication by:
 - Taking advantage of existing and new forums for issue identification.
 - Defining and eliminating communication barriers.
 - Sharing information using all possible communication vehicles, such as E-mail, video conferencing, etc.
- C. Achieve effective conflict resolution by:
 - Developing and implementing a process for resolving conflicts (see Section VIII of this document).
 - Maintaining a commitment to use the process developed.
 - Honoring past commitments.
 - Maintaining a solutions-oriented attitude.
 - Recognizing the need for flexibility, especially to meet the public safety needs.
- D. Streamline and improve timeliness of review processes by:
 - Early involvement of all relevant parties through proactive participation.
 - Pooling and sharing of expertise and resources.
 - Striving for a single point of contact.
 - Eliminating unnecessary paperwork and processing steps.
- E. Coordinate planning processes by:
 - Holding coordination meetings.
 - Integrating transportation needs with NPS land use plans.
 - Using an interdisciplinary approach throughout all processes.
 - Developing consensus on the environmental review process.

F. Develop and maintain effective teamwork by:

- Undertaking additional training in team building and partnering.
- Striving for mutual respect.

Specific Responsibilities

A working schedule of tasks for the NEPA/ESA process is provided in Appendix 2, Table 1. A Project Schedule Bar Chart incorporating compliance processes and design stages is provided in Appendix 2, Table 2.

Other roles and responsibilities include but are not limited to the following:

National Environmental Policy Act (NEPA) (PL 91-190; 42 U.S.C. 4321 *et seq.*). The FHWA and NPS-OPCNM will be co-lead federal agencies with the responsibility to comply with NEPA and other legal requirements for the proposed improvements on State Route 85, in order to be eligible to use Federal-aid funds on the proposed improvements. ADOT will be a cooperating agency. The agencies have agreed to prepare an Environmental Assessment (EA) for the proposed projects. ADOT will prepare the draft EA, with input from the FHWA and NPS. Implementing regulations for NEPA are found at 40 CFR 1500-1508 for the Department of the Interior and at 23 CFR 771 for the FHWA.

- a) Endangered Species Act (ESA) (PL 93-205, 87 Stat. 884, as amended; 16 U.S.C. 1531-1536, 1538-1540). ADOT/EcoPlan and OPCNM will prepare the biological assessment (BA) as required for a formal section 7 consultation. The NPS will be the lead agency for consultation. The NPS will submit the BA and request for formal consultation to the U.S. Fish and Wildlife Service (FWS), Ecological Services, Tucson Field Office. The FHWA and NPS will consult with the FWS. The BA and biological opinion will be appended to the EA.
- b) Clean Water Amendments (Federal Water Pollution Control Act Amendments of 1972) (PL 92-500, 86 Stat. 816, as amended; 33 U.S.C. 1251, *et seq.*), Permits for Dredged or Fill Material (section 404). A section 404 permit will be needed because several of the proposed modifications may impact waters of the U.S. The NPS will prepare a Statement of Findings (SOF) as required by NPS guidelines.
- c) The NPS, FHWA and ADOT will prepare a mitigation plan, which will be attached to the permit application. ADOT will prepare the permit application and the NPS will submit the application to the Corps of Engineers Regulatory Branch.

- d) Clean Water Amendments (Federal Water Pollution Control Act Amendments of 1972) (PL 92-500, 86 Stat. 816, as amended; 33 U.S.C. 1251, *et seq.*), National Pollutant Discharge Elimination System (section 402). The Storm Water Rule requires a National Pollution Discharge Elimination System (NPDES) permit when construction actions will clear more than 5 acres of land. ADOT will prepare a permit application and Storm Water Pollution Prevention Plan (SWPPP) if it is determined that more than 5 acres will be disturbed by the proposed actions.
- e) National Historic Preservation Act (PL 89-665, 80 Stat. 915; 16 U.S.C. §470 *et seq.*), section 106. Section 106 of the NHPA requires that federal agencies consider the effect of their proposed actions on cultural resources either listed or eligible to be listed on the National Register of Historic Places (NRHP). To allow the State Historic Preservation Office (SHPO), representatives of tribes traditionally affiliated with the lands of OPCNM, and the Advisory Council on Historic Preservation (ACHP) an opportunity to comment on the proposed actions. Implementing regulations for section 106 are found at 36 CFR Part 800.
- Organ Pipe Cactus National Monument will ensure that the area potentially impacted by the waysides is surveyed for cultural resources. ADOT will ensure that all other areas potentially impacted by the proposed projects are surveyed for cultural resources. The NPS will be responsible for any necessary data recovery. The FHWA and NPS will jointly submit the Determination of Eligibility (DOE) findings to the SHPO.
 - ADOT and FHWA will initiate and conclude all consultations with the Arizona SHPO and, if necessary, the Advisory Council Historic Preservation (ACHP), including their review of the Memorandum of Understanding and the EA. ADOT and the FHWA will consult with representatives of Native American tribes traditionally associated with the lands of Organ Pipe Cactus National Monument, to identify ethnographic resources within the area of potential impacts. ADOT or the FHWA will forward copies of the section 106 compliance and documentation to OPCNM, including copies of correspondence from the SHPO and representatives of affiliated American Indian tribes.
 - The representatives will be kept informed of the planning process and provided opportunities to comment on the environmental assessment.

a) NPS Special Directive 91-6 (In-Park Borrow Material). In-park material sources for road construction may only be used if the following two tests are met:

1. Acceptable sources exist in the park.
2. Economic factors make it totally impractical to import materials.

In this case, the use of in-park sources is not acceptable to the NPS because materials can be imported economically and no acceptable sources exist in the monument. Borrow sources must be inspected and approved by the NPS as being free of invasive exotic species of management concern to the NPS.

Although no in-park material sources will be used for this project, alternatives with potential impacts resulting from possible material extraction on BLM land will be evaluated.

The NPS and ADOT have an existing valid Memorandum of Understanding, dated December 19, 1941, stating that the Cooperators [the State and Pima County] agree to repair and maintain 'Organ Pipe Cactus National Monument Highway.' Both agencies continue to honor the MOU.

VI. COORDINATION MEETINGS

NPS-OPCNM, FHWA and ADOT agree to hold local coordination meetings or otherwise make contact as often as needed. The meetings will be scheduled by joint action of NPS-OPCNM, FHWA and ADOT. Other groups, agencies and individuals, as deemed necessary or beneficial to the intent of the meeting, may be invited to attend. The purpose of these local meetings is to:

- Share information and keep each other informed of progress on ongoing projects and the partnering effort.
- Review agency responsibilities, programs and priorities, including preliminary plans, which may develop into future cooperative efforts.
- Identify additional opportunities for improvement that may require the attention and/or support of the next level of management and/or should be included on the agenda for the State meeting.
- Work out exchanges of materials, workers or equipment on a temporary basis and on specific case related work areas where such an arrangement would be to the mutual benefit of the NPS-OPCNM, ADOT, and FHWA.

VII. CONFLICT RESOLUTION

All parties agree to work cooperatively to avoid and resolve conflicts. If disagreements emerge which cannot be resolved, the following procedure will be followed:

- A. All parties involved must agree that an impasse has been reached.
- B. All parties involved must be able to respond in the affirmative to the following statements:
 - 1. The position I am taking is consistent with my agency's mission.
 - 2. The position I am taking is legal and ethical.
 - 3. The position I am taking is good for our customers and acceptable to all cooperators.
 - 1. The position I am taking makes efficient use of resources.
 - 2. I am willing to accept full responsibility for the position I am taking.
- C. If each party to the impasse has honestly answered yes to the above statements and an impasse remains, the impasse shall be escalated as follows:

NPS-OPCNM
Compliance Officer



Superintendent
NPS-OPCNM



Deputy Regional Director
NPS-Intermountain Region



Regional Director

ADOT
Project Manager
Manager, Environmental
Planning Group



Assistant State Engineer
/District Engineer



Deputy State Engineer



State Engineer

FHWA
Area Engineer/Environmental
Program Manager



District Engineer



Assistant Division
Administrator



Division Administrator

- D. When the parties at the lowest level have agreed to escalate, a meeting date will be established within 5 working days. At that time, parties from both levels will meet to discuss the issues and to come to resolution. If an agreement cannot be reached, then the issue will be escalated to the next level and a meeting date will be established within 5 working days. At that time, the parties from all three levels will meet to discuss the issues and to come to resolution. If an agreement cannot be reached, the issue will be escalated to the highest level and a meeting date will be established within 5 working days. At that time, all parties will meet to come to resolution.

VIII. SUBJECT TO EXISTING LAWS

This Memorandum of Understanding will clarify the legal rights and remedies which the State of Arizona and the United States would otherwise have.

- A. Each and every provision herein is subject to the applicable laws and regulations of Arizona, the laws of the United States, the regulations of the Secretary of the Interior and the regulations of the Secretary of Transportation.
- B. Nothing herein will be construed as limiting or affecting in any way the authority or legal responsibility of the State Engineer, ADOT, the Division Administrator, FHWA, or the Regional Director, NPS, or as binding on the NPS, ADOT, or FHWA to perform beyond the respective authority of each, or to require any party to assume or expend any sum in excess of appropriations available. It is understood that all the provisions herein must be within financial, legal, and personnel limitations as determined practical by the State Engineer, ADOT, the Division Administrator, FHWA, and the Superintendent, NPS-OPCNM for their respective responsibilities.
- C. In carrying out the provisions of the Memorandum of Understanding, and any appendices or attachments hereto, prevailing systems and procedures will be clarified and streamlined to the greatest extent possible.

IX. MODIFICATIONS, EFFECTIVE DATE, AND TERMINATION

This Memorandum of Understanding and any attachments, modifications, or appendices attached hereto shall become effective as soon as signed by all parties and shall continue in force either until formally terminated by any signatory hereto after forty-five (45) days notice in writing to the others of its intention to do so or after the subject improvements have been completed.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed by the Superintendent, Organ Pipe Cactus National Monument; the Director, Arizona Department of Transportation; and the Division Administrator, Arizona Division of the Federal Highway Administration on this 22nd day of September, 2000.

UNITED STATES

BY: William E. Wellman

Date: 9/22/00

William E. Wellman
Superintendent
Organ Pipe Cactus National Monument
Arizona

BY: Robert E. Hollis

Date: 9/22/00

Robert E. Hollis
Division Administrator
Federal Highway Administration
Arizona

STATE OF ARIZONA

BY: Mary E. Peters

Date: 9/22/00

for Mary E. Peters
Director
Arizona Department of Transportation

APPENDIX I. PROJECT PARTICIPANTS

Decision Team

Robert E. Hollis	District Engineer, FHWA
Mary E. Peters	Director, ADOT
William E. Wellman	Superintendent, OPCNM
Dennis Alvarez	District Engineer
Richard Duarte	Manager, Environmental Planning Group, ADOT

Core Planning and Design Team

Federal Highway Administration	
Steve Thomas	Environmental Program Manager
National Park Service	
Greg Cody	Denver Support Office
Sue Rutman	OPCNM, plant ecologist & compliance specialist
ADOT	
John Melanson	ADOT Project Manager
Melissa Maiefski	Environmental Planning
Others?	
EcoPlan (ADOT contractor, environmental compliance)	
Leslie Stafford	Senior Environmental Planner

Participants and Consultants

ADOT	
Phil Bleyl	Area Engineer
Larry Maucher	Statewide Project Management
Ricardo Heredia	Tucson District Maintenance
Daniel Williams	Tucson District Maintenance
Tammy Flaitz	Environmental Planning
Harry Woelzlein	Roadside Development
Larz Garcia	Roadside Development
Curtis Litin	Traffic Design
Maria Deal	Regional Traffic
Entranco	
Bill Cowdrey	
Mark Goodman	
U.S. Fish and Wildlife Service	
Mike Coffeen	Endangered Species Biologist
NPS—Western Archeological and Conservation Center	
Trinkle Jones	Supervisory Archeologist

NPS-OPCNM

Peter Rowlands

Mitzi Frank

Bill Mikus

Dale Thompson

Shirley Schlinkmann

Tim Tibbitts

Nancy Favour

Michael Baker, Jr., Inc. (ADOT contractor, wayside design)

Ann Eisentraut

Ed Corral

Chief, Resources Management Division

Chief, Resources Education Division

Chief, Facilities Management

Chief, Visitor Protection

Chief, Administration Division

Wildlife Biologist

Geographer

APPENDIX II

Table 1. The following schedule for this project outlines key tasks, responsibilities and deadlines for the NEPA process. If deadlines are not met, delays may result in the delay of dependent tasks or failure to award the contract(s) on time.

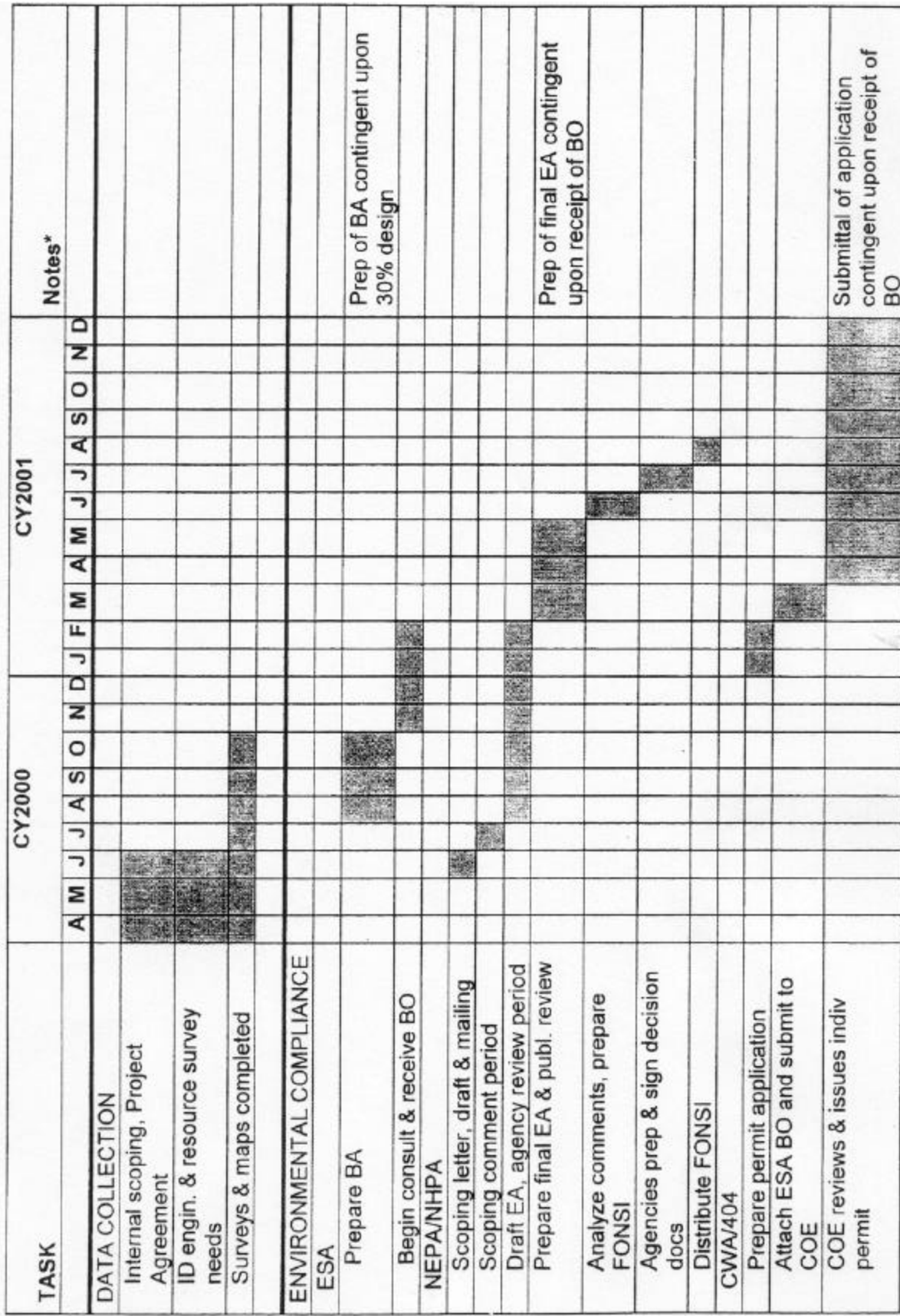
DESCRIPTION	RESPONSIBLE PARTY	EST START	EST COMPLETE	ACTUAL COMPLETE
Pre-scoping (establish goals, review planning status, discuss project assignments, etc.)	FHWA, NPS, ADOT	Present	6/15/00	
ID engineering planning and resource survey needs	ADOT, FHWA, NPS	Present	6/30/00	
Collect ethnographic information or develop process for obtaining it	ADOT, NPS	Present	10/30/00	
Surveys and maps completed	ADOT, NPS	Present	10/30/00	
Draft project agreement, interagency agreement (IA)	NPS	5/9/00	5/24/00	
Agency review and comment on IA	FHWA ADOT	5/25/00	6/7/00	
Incorporation of comments on IA and signature	NPS	6/8/00	6/15/00	
Notify SHPO/THPO that Section 106 for project will be melded into the EA	NPS		late June (after IA signed)	
Prepare draft scoping letter	ADOT/EcoPlan NPS	6/1/00	6/30/00	
Prepare/manage mailing list	ADOT/EcoPlan NPS	6/1/00	6/30/00	
Distribute scoping letter	ADOT/EcoPlan	7/1/00	7/1/00	
Comment period	ADOT/EcoPlan NPS	7/1/00	7/31/00	
Analyze public responses	ADOT/EcoPlan NPS	8/1/00	8/15/00	

DESCRIPTION	RESPONSIBLE PARTY	EST START	EST COMPLETE	ACTUAL COMPLETE
	NPS			
Conduct post-scoping open houses (as needed/requested).				
Write description of alternatives	ADOT/EcoPlan NPS FHWA	summer/ fall 2000	Fall 2000	
Assessment workshop, preliminary impact analysis (assign writing assignments)	All			
Select preferred alternative (value analysis)	NPS			
ESA: Prepare Biological Assessment	ADOT/EcoPlan NPS	8/1/00	12/1/00	
ESA: Section 7 consultation period & issuance of BO	NPS, FHWA	11/1/00	2/28/01	
Prepare EA	ADOT/EcoPlan NPS	8/1/00	12/1/00	
Impact analysis workshop	ADOT/EcoPlan NPS FHWA			
Lead and Cooperating Agencies' review of draft EA	ADOT/EcoPlan NPS FHWA	12/1/00	1/30/01	
Revise EA	ADOT/EcoPlan NPS FHWA	2/1/01	5/20/01	
Print/distribute EA	ADOT/EcoPlan	5/21/01	5/30/01	
Public review (30 days). Consult with key interest groups as necessary		6/1/01	7/1/01	
Analyze public response, select/answer substantive comments	ADOT/EcoPlan NPS FHWA			

DESCRIPTION		RESPONSIBLE PARTY	EST START	EST COMPLETE	ACTUAL COMPLETE
Prepare FONSI		ADOT/EcoPlan NPS	6/1/01	6/30/01	
Review, revise and edit FONSI. Prepare IMR environmental check list		NPS FHWA	7/1/01		
Forward FONSI and environmental check list to Environmental Quality and Planning for review and transmittal to Regional Director's office		NPS			
FHWA PROCESS?					
Regional Director signs FONSI		NPS			
Transmit to FHWA to co-sign		NPS			
FHWA signs FONSI		FHWA			
Distribute FONSI to peer/WASO/agency/partners/public		ADOT/EcoPlan		8/30/01	
Closeout NEPA/Section 106 process		All			
THROW PARTY					

* **Bold** indicates lead

Figure 2. Project schedule bar chart.



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